IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 3009 OF 2007

Annarao Mahadev Karbhari.... Petitioner

versus

Bhimshankar Anappa Lokhande & anr..... Respondent.

Shri Rajesh S.Datar for the petitioner
Shri Shirshail Sakhare for the respondents

CORAM; A.P. DESHPANDE, J.
DATED; 20TH APRIL, 2007

P.C.;

1. The present petitioner is the origibnal plaintiff who by filing a civil suit prayed for injunction against the respondent/defendant that he should not use the approach way and there does not exist any approach way. The petitioner has purchased a part of land from one Bapu Navghare in the year 1999 whereas Bapu had purchased the land from the father of the defendant in the year 1982. Initially it was one piece of land and a portion of the land has been purchased by the plaintiff which was originally owned by the defendant. In the sale deed executed by the father of the defendant to Bapu Navghare right of way was kept in the suit land to go to the land of the defendants from north side road. The trial court in this fact situation had granted temporary injunction

in favour of the plaintiff/petitioner.

2. However in the appeal filed by the defendant, the first appellate court has set aside the order and vacated the injunction. it is this order which is challenged by filing this writ petition.

3. It is obvious that omission to mention the right of approach way in the second sale deed does not result in abrogation of that right. The view taken by the fiorst appellate court primafacie is correct. No interference is therefore called for. Hence writ petition is summarily dismissed.

4. At this stage the learned counsel for the petitioner prays for expedited disposal of the suit. I therefore direct the trial court to decide the suit expeditiously.

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